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10/088,196	06/13/2002	Yoichiro Sako		1498

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EXAMINER

AGUSTIN, PETER VINCENT

ART UNIT PAPER NUMBER

2652

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,196

Applicant(s)

SAKO, YOICHIRO

Examiner

Peter Vincent Agustin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 14-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 14-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 3-7 & 14-25 are now pending.

Claim Objections

2. Claims 3 & 14 are objected to because of the following informalities:

Claim 3 is dependent upon a canceled claim.

Claim 14, line 5: "is recorded" should be deleted.

Claim 14, line 18: "mode" should be --modes--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 & 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sako et al. (WO00/34947 published June 15, 2000; please refer to EP 1076332 A1 for English language full text).

In regard to claim 1, Sako et al. disclose a recording medium (please refer to abstract) having recorded thereon first data (note "first data of upper 16 bits") in a form of a track consisting of a plurality of pits, second data (note "second data of lower 4 bits") by displacing the pits from the track in a direction normal to the track (note "displacement in the right/left direction" and "deviated pit"), and content data (paragraph 0042: "disc identification data ID and the copy identification data IC") representing contents of the first data, including reproduction-

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mode identification data (IC) representing a reproduction mode of reproducing the first data and the second data (see paragraph 0053, which teaches discriminating whether the disk is original or copied based on the detected IC, and controlling selecting circuits 25 and 36 of Figure 3 depending on the detected IC, i.e., IC represents “a reproduction mode of reproducing the first data and the second data”).

In regard to claim 3, Sako et al. disclose that the reproduction-mode identification data (IC) represents a first reproduction mode (paragraph 0053: “ExCD”) in which a signal is reproduced by performing an operation on the first data and on the second data, and a second reproduction mode (paragraph 0053: “existing compact disc”) in which the first data, the second data, or both the first and second data are reproduced.

In regard to claim 4, Sako et al. disclose a first recording area (area on the disk where “first data” and “second data” are recorded) for recording the first data and the second data and a second recording area (see paragraphs 0024 & 0025, note “lead-in area”) for recording the content data that is read before the first recording area.

In regard to claim 5, Sako et al. disclose that the first data is 16-bit digital audio data modulated in an 8-to-14 modulating scheme (see lines 1-3 of abstract, note “EFM”).

In regard to claim 6, Sako et al. disclose that the second data is 4-bit digital audio data modulated in an 8-to-14 modulating scheme and the first data and the second data together form 20-bit audio data (see lines 1-3 of abstract).

In regard to claim 7, Sako et al. disclose that the pits corresponding to the second data are displaced in the direction normal to the track by distances within a range that allows a laser beam to scan the track (see paragraph 0033).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sako et al. in view of Miura et al. (JP 03207051).

In regard to claim 14, Sako et al. disclose a method for reproducing data from a recording medium (please refer to abstract) having recorded thereon first data (note “first data of upper 16 bits”), second data (note “second data of lower 4 bits”), or both the first data and the second data, and content data (paragraph 0042: “disc identification data ID and the copy identification data IC”) representing contents of the first data is recorded, the first data recorded in a form of a track consisting of a plurality of pits, the second data recorded by displacing the pits from the track in a direction normal to the track (note “displacement in the right/left direction” and “deviated pit”), and the content data including identification data (ID) that indicates whether the second data is recorded on the recording medium (see paragraph 0025), wherein the content data further includes reproduction-mode identification data (IC) representing a reproduction mode of reproducing the first data and the second data (see paragraph 0053, which teaches discriminating whether the disk is original or copied based on the detected IC, and controlling selecting circuits 25 and 36 of Figure 3 depending on the detected IC, i.e., IC represents “a reproduction mode of reproducing the first data and the second data”), the method comprising the steps of: selecting one of the reproduction modes of reproducing the first data and the second data (note selecting

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circuits 25 and 36 of Figure 3); and reproducing the first data and the second data read from the recording medium in accordance with the selected reproduction mode, when the second data is recorded on the recording medium (reproduction is performed by the apparatus of Figure 3).

However, in regard to claim 14, Sako et al. do not disclose “receiving the selection of the user” in selecting one of the reproduction modes and reproducing in accordance with the selected reproduction mode “selected by the user”.

Miura et al. disclose receiving the selection of the user of one of the reproduction modes and reproducing data from a recording medium in accordance with the selected reproduction mode selected by the user (see abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to have applied the teachings of Miura et al. to the method of Sako et al., the motivation being to enable a user to directly execute an operation corresponding to the desired disk (see last two lines of constitution).

In regard to claim 15, Sako et al. disclose that the reproduction-mode identification data (IC) represents a first reproduction mode (paragraph 0053: “ExCD”) for reproducing a signal by performing an operation on the first data and on the second data, and a second reproduction mode (paragraph 0053: “existing compact disc”) for reproducing the first data or the second data, or both the first data and the second data.

In regard to claim 16, Sako et al. disclose that when the reproduction-mode identification data (IC) represents the first reproduction mode (ExCD), an operation is performed on two data items obtained by reproducing the first data and the second data, both read from the recording medium.

In regard to claim 17, Sako et al. disclose that when the reproduction-mode identification data (IC) represents the second reproduction mode (existing compact disc), either a first data item obtained by reproducing the first data or a second data item obtained by reproducing the second data is output.

In regard to claim 18, Sako et al. disclose that the first data read from the recording medium is reproduced and output when the second data is not recorded on the recording medium (see paragraphs 0043 & 0050).

In regard to claim 19, Sako et al. disclose an apparatus (Figure 3) for reproducing data from a recording medium (21) having recorded thereon first data or second data, or both the first data and the second data, and content data representing contents of the first data, the first data recorded in a form of a track consisting of a plurality of pits, the second data recorded by displacing the pits from the track in a direction normal to the track, and the content data including identification data that indicates whether the second data is recorded on the recording medium, wherein the content data further includes reproduction-mode identification data representing a reproduction mode of reproducing the first data and the second data (see claim 14 above for similar limitations), said apparatus comprising: a head section (23) configured to apply a laser beam to scan the recording medium; a signal-reproducing section (24, 25, 26, 28, 29, 30, 31 & 33) configured to reproduce a signal read from the recording medium by the head section; a reproduction mode selection switch (25 & 36) for selecting the reproduction mode of reproducing the first data and the second data; and a control section (see paragraph 0048, line 2) configured to cause the signal-reproducing section to reproduce the first data and the second data, both read from the recording medium, in accordance with the selected reproduction mode,

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when the second data is recorded on the recording medium. However, in regard to claim 19, Sako et al. do not disclose “a reproduction mode selection button manipulated by the user” to select the reproduction mode and reproducing in accordance with the selected reproduction mode “selected by the user”.

Miura et al. disclose a reproduction mode selection button manipulated by the user to select the reproduction mode and reproducing data in accordance with the selected reproduction mode selected by the user (see abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to have applied the teachings of Miura et al. to the apparatus of Sako et al., the motivation being to enable a user to directly execute an operation corresponding to the desired disk (see last two lines of constitution).

In regard to claim 20, Sako et al. disclose a first signal-processing section (26 & 29) configured to perform at least demodulation in a signal output from the head section, a second signal-processing section (28, 30 & 31) configured to perform at least demodulation on a component of the signal output from the head section, which corresponds to the displacement of pits from the track in a direction normal to the track, and a mixing section (33) configured to mix the data output from the first signal-processing section and the data output from the second signal-processing section.

In regard to claim 21, Sako et al. disclose a switching circuit (36) which is controlled by the control section for selecting the data output from the first signal-processing section or data output from the mixing section.

In regard to claim 22, Sako et al. disclose that the control section further controls the switching circuit to select the data output from the mixing section when the reproduction-mode

identification data read from the recording medium by the head section represents a reproduction mode in which a signal is reproduced by performing an operation on the first data and on the second data (see paragraphs 0046 & 0047).

In regard to claim 23, Sako et al. disclose that the control section further controls the switching circuit to select the data output from the first signal-processing section when the reproduction-mode identification data read from the recording medium by the head section represents a reproduction mode in which the first data or the second data, or both the first data and the second data are reproduced (see paragraphs 0049 & 0050).

In regard to claim 24, Sako et al. disclose a switching circuit (25) configured to supply the second signal-processing section with a component of a signal in accordance with a control signal supplied from the control section, said component of the signal being one corresponding to the displacement of the pits from the track in the direction normal to the track.

In regard to claim 25, Sako et al. disclose that the control section outputs data output from the signal-reproducing section and corresponding to the first data read from the recording medium, when the identification data read from the recording medium by the head section indicates that the second data is found not to be recorded on the recording medium (see paragraphs 0043 & 0050).

Response to Arguments

7. Applicant's arguments filed April 11, 2005 have been fully considered but they are not persuasive.

a. The Applicant argues on page 13, paragraph 4 that "there is no reproduction-mode identification data representing a reproduction mode of reproducing first and

second data recorded on a recording medium in response to a selection by a user” in the Sako et al. reference, and that the disk ID in Sako et al. “is unrelated to the claimed reproduction-mode identification data”. The Examiner notes that the “copy identification data IC” described in paragraph 0025 is read to correspond to the claimed reproduction-mode identification data. The Examiner also notes that paragraph 0053 of Sako et al. teaches discriminating whether the disk is original or copied based on the detected IC, and controlling selecting circuits 25 and 36 of Figure 3 depending on the detected IC, i.e., IC represents “a reproduction mode of reproducing the first data and the second data”. The Examiner acknowledges that Sako et al. does not teach reproducing data “in response to a selection by a user”. However, for the reasons noted in the 103(a) rejection above, this feature would have been obvious to one of ordinary skill in the art in view of the Miura et al. reference.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Vincent Agustin whose telephone number is 571-272-7567.

The examiner can normally be reached on Monday-Friday 9:30-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Thi Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Vincent Agustin
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BRIAN E. MILLER
PRIMARY EXAMINER